IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1846 of 1990

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ORIENTAL INSURANCE CO. LTD. - Appellant(s)
Versus
INDUBHA DHULUBHA CHAVDA HEIR OF DILUBHA MULJI CHAVDA & 8 - Defendant(s)

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Appearance :
MS VIRAJ FOZDAR for MR SHALIN N MEHTA for Appellant(s) : 1,
MS SEJAL K MANDAVIA for Defendant(s) : 1 - 5.
NOTICE SERVED for Defendant(s) : 6 - 9.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 16/08/2007

ORAL JUDGMENT

Ms. Viraj Fozdar, learned counsel for the appellant under the authority of Shri Shalin N.

Mehta; Ms. Sejal K. Mandaviya, learned counsel for the respondents no. 1 to 5; none for the other respondents though served.

2. The Insurance Company, being aggrieved by the award dated 16.6.90 passed by the MAC Tribunal, Porbandar in MAC Petition No. 42/89 is before this Court with a submission that the Tribunal should have reduced the amount which the claimant got under the provisions of the Workmen's Compensation Act and as the Tribunal has not deducted the said amount, this Court should interfere in the matter. Ms. Sejal K.Mandaviya, learned counsel for the respondents no. 1 to 5, on the other hand, relying upon the Division Bench judgment of this Court in the matter of Nasimbanu, widow of Sirajuddin v. Ramjibhai Bahcubhai Ahir [2005 [2] GLR 1476] submitted that the amount awarded under the Workmen's Compensation Act against the employer could not be deducted from the compensation payable by tortfeasor under the Motor Vehicles Act.

3. In view of the authoritative pronouncement of

the Division Bench of this Court, I have no reason to hold that the Insurance Company is entitled to raise a plea that the amount awarded under the provisions of the Workmen's Compensation Act is required to be deducted from the compensation payable by the tortfeasor under the Motor Vehicles Act.

4. I find no reason to interfere. The appeal is dismissed. No costs. Interim relief, if any, is vacated.

[R.S. GARG, J.]

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